

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

CURTIS EDWARD McCARTY,)
vs.)
Plaintiff,)
vs.) Case Number CIV 07-1374-C
JOYCE GILCHRIST, *et al.*,)
Defendants.)

MEMORANDUM OPINION AND ORDER

Defendants filed the present Motion seeking to dismiss Plaintiff's claims against Defendant William City and Joyce Gilchrist. Defendants argue that since Plaintiff's claims against these Defendants names them in their official capacity, their inclusion is redundant to Plaintiff's claims against Defendant City of Oklahoma City. Defendants also assert that by virtue of city ordinance, Defendant Gilchrist cannot be considered a policymaker.

While it is true that a claim against an official capacity claim is the functional equivalent of a claim against the entity, that fact provides no basis for dismissal of the official capacity claims. Likewise, while the city ordinance may impact who is considered a policymaker under city law, it has little or no bearing on who is a policymaker as that term applies in a § 1983 action.

Defendants' Motion to Dismiss Plaintiff's Official Capacity Claims (Dkt. No. 28) is

DENIED.

IT IS SO ORDERED this 7th day of July, 2008.



ROBIN J. CAUTHRON
United States District Judge